IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

WP(C).No. 36254 of 2007(N)

PETITIONER:

DR. V.K.JAYAKUMAR,
SABARIGIRI HOSPITAL, ANCHAL, KOLLAM DISTRICT.

BY ADV. SRI.R.RAMADAS

RESPONDENTS:
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1. **THE INCOME TAX APPELLATE TRIBUNAL,**
   COCHIN BEACH, COCHIN.

2. **THE COMMISSIONER OF INCOME TAX(APPEALS),**
   KOCHI.

3. **THE DEPUTY COMMISSIONER OF INCOME TAX,**
   CENTRAL CIRCLE, MANNANIYYA COMPLEX,
   ANDAMUKKOM, KOLLAM.

4. **THE TAX RECOVERY OFFICER,**
   OFFICE OF THE ADDITIONAL COMMISSIONER OF INCOME TAX, KARBALA JUNCTION, RAILWAY STATION ROAD, KOLLAM.

BY SRI.GEORGE K.GEORGE, SC FOR I.T.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
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W.P.(C) NO. 36254 OF 2007 N
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Dated this the 7th day of December, 2007

J U D G M E N T

Ext.P7 order of the 1st respondent is under challenge.

2. By this order, the stay petitions filed by the petitioner, in which an order of stay was passed, has been vacated in the light of the provisions contained in Section 254(2A) of the Income Tax Act. For this purpose, the Tribunal has relied on the judgment of the Income Tax Appellate Tribunal, Mumbai in the case of Narang Overseas Private Ltd. However, it is now brought to my notice that the very order of the Bombay Bench of the Tribunal relied on by the 1st respondent has been reversed by the Bombay High Court in the judgment reported in **Narang Overseas P. Ltd v. Income Tax Appellate Tribunal and others [2007 295 ITR 22(Bom)]**.

3. In the light of the aforesaid judgment of the Bombay High Court, Ext.P7 order has lost its very basis and hence it deserves to be set aside and I do so. Tribunal shall re-consider Ext.P4 application filed by the petitioner for stay and pass

appropriate orders thereon, as expeditiously as possible, at any rate within four weeks of receipt of a copy of this judgment. In the meantime, further proceedings pursuant to Ext.P8 will stand deferred.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE.

Rp